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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,741	08/17/2001	Lee E. Cannon	4657US(300-015)	4593

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EXAMINER

CROSS, ALAN

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/932,741	CANNON, LEE E.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Alan Cross	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 38,39,41-50,81-101,104 and 106 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 38,39,41-50,81-101,104 and 106 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 38, 39, 41-46, 81-84, 90-101, 104 and 106 are rejected under 35**

**U.S.C. 103(a) as being unpatentable over Marnell, U.S. Patent No. 5,393,057 in view of Brune et al. U.S. Patent No. 5,851,148.** Marnell discloses a method for playing a group game. Each of a plurality of plays of individual games are played by a plurality of players at respective gaming machine in which an outcome is generated for the individual game. The outcome is one of a plurality of outcomes including at least a first set of outcomes and a second set of outcomes (See Marnell col. 2 lines 35-67; col. Figs. 1 & 2). A first group of cells is displayed. Each cell in the first group of cells is capable of being designated with a designator in response to any player of the plurality of players achieving an outcome in the first set of outcomes. The designator indicates the gaming machine at which the outcome from the first set of outcomes was generated. A cell of the first group of cells is designated with the designator responsive to an occurrence of any outcome from the first set of outcomes (See Marnell Figs. 1 & 2; col. 6 lines 1-8, 60-67). A second group of cells is displayed while the first group of

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cells is displayed. Each cell in the second group of cells is capable of being designated with the designator in response to any player of the plurality of players achieving an outcome in the second set of outcomes, wherein the designator indicates the gaming machine at which the outcome in the second set of outcomes was generated. A cell of the second group of cells is designated with the designator responsive to an occurrence of any outcome from the second set of outcomes (See Marnell Figs. 1 & 2; col. 6 lines 1-8, 60-67) [claims 38, 81, 106]. For example, the player plays a poker or slot machine game and based on the outcome of that game if the outcome is included in the bingo matrix, the player gets their gaming machine number placed in the cell of the bingo matrix. The matrix is a 5 x 5 matrix and one can divide the matrix into groups of cells. For example, the first one or two columns could be considered "a first group of cells" and the other columns could be considered to constitute "a second group of cells". Furthermore it is noted that the player receives an outcome and can hold all the cards, this could be considered "an outcome in the first set of outcomes" and when the player discards and receives new cards that can be considered "an outcome in the second set of outcomes". The corresponding cell in the matrix is filled in for both the first or second outcomes. The first value payout is apportioned among a first plurality of players if all of the cells in the first group of cells are designated. The second value payout is apportioned among a second plurality of players if all of the cells in the second group of cells are designated (See Marnell col. 7 lines 7-14; col. 10 lines 7-23) [claim 39]. Apportioning the first value payout comprises apportioning the first value payout according to respective numbers of designations in the designated cells of the first

group of cells that correspond to each gaming machine of the first plurality of players (See Marnell col. 7 lines 7-14) [claim 41]. The first value payout is distributed to the first plurality of players (See Marnell col. 7 lines 7-14; col. 10 lines 7-24) [claim 42]. The first group of cells comprise a first row of cells and the second group of cells comprises a second row of cells (See Marnell Fig. 1) [claim 43]. The first group of cells comprise a first column of cells and the second group of cells comprises a second column of cells (See Marnell Fig. 1) [claim 44]. The first group of cells are configured as a group of playing card indicia and the game provides a player card indicia of the group of playing card indicia for each cell of the first group of cells (See Marnell Fig. 1) [claim 45]. The individual game comprises draw poker (See Marnell col. 4 lines 5-9) [claim 46]. A number of designated cells of the first plurality of cells correspond to a number of outcomes from the first set of outcomes achieved by the plurality of players (See Marnell Fig. 1) [claim 83]. The plurality of cells are arranged in order, i.e. random, wherein designating the cell of the plurality of cells comprises designating a next cell in the order from the plurality of cells (Marnell Fig. 1) [claim 84]. Each cell of the first plurality of cells corresponds to at least one outcome from the first set of outcomes (See Marnell Fig. 1) [claim 90]. Achieving the first group goal corresponds to designating all of the cells in the first plurality of cells (See Marnell col. 6 lines 18-20) [claim 91]. The image representative of the group game includes a plurality of playing cards. Each playing card of the plurality of playing cards comprises a respective cell of the first plurality of cells. Designating the cell from the first plurality of cells comprises designating a playing card from the plurality of playing cards (See Marnell Fig. 1; col. 6

lines 1-13) [claim 94]. Providing the first value payout comprises providing the first value payout when all of the cells of the first plurality of cells have been designated (See Marnell col. 6 lines 18-24) [claim 96]. Providing the first value payout comprises apportioning the first value payout among players whose gaming machine corresponds to at least one of the designated cells in the first plurality of cells (See Marnell col. 7 lines 1-14) [claim 97]. The first value payout is apportioned based on the number of designated cells in the first plurality of cells corresponding to each gaming machine (See Marnell col. 7 lines 1-14) [claim 98].

Marnell discloses that the first group of cells has associated therewith a first value payout and the second group of cells has associated therewith a second value payout, i.e. each row or column completed will win the jackpot. Marnell lacks in disclosing that the payouts are different from each other where the second group of cells being non-overlapping with the first group of cells and providing a payout for the first or second groups of cells as they do not overlap. Brune teaches disclosing payouts for different groups (col. 4, 53-61), where the cells are non overlapping (col. 4 26-53, fig. 4) and paying a payout for the first or second group if the first or second group were all selected. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have different payouts for the different groups of cells of the invention and to have those cells non overlapping in modifying the invention of Marnell using the teaching of Brune. By having different payouts for different winning combinations, players can be rewarded with larger payouts for achieving the more difficult winning combinations which provides a more entertaining and fair gaming

experience for the player. At the time the invention was made it would have been a matter of obvious design choice to a person of ordinary skill in the art to have the groups of cells non overlapping. Separate groups from the bingo board could be separated so that they would not overlap, there by separate columns would have a set of playing positions or game outcomes to be selected that would not be overlapping as in a bingo matrix.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to designate the indicia by crowning the playing card indicia because Applicant has not disclosed that the crowning provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Marnell's game, and applicant's invention, to perform equally well with either lighting up the designated playing card indicia as taught by Marnell or crowning the indicia because both ways would perform the same function of designating the playing card indicia so that a player would recognize that they have achieved that outcome. Therefore, it would have been prima facie obvious to modify Marnell to obtain the invention as specified in claim 95 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Marnell.

**Claims 47-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marnell in view of Brune in further view of Tallarida, U.S. Patent No. 3,618,952.** Marnell discloses all of the limitations above and also discloses that the corresponding designated cell of the first group of cells comprises designating playing

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card indicia (See Marnell Fig. 1) [claim 49]. Marnell discloses designating the playing card indicia by lighting it up in the matrix. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to designate the indicia by crowning the playing card indicia because Applicant has not disclosed that the crowning provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Marnell's game, and applicant's invention, to perform equally well with either lighting up the designated playing card indicia as taught by Marnell or crowning the indicia because both ways would perform the same function of designating the playing card indicia so that a player would recognize that they have achieved that outcome. Therefore, it would have been prima facie obvious to modify Marnell to obtain the invention as specified in claim 50 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Marnell. Marnell lacks in disclosing that the first group of cells comprises displaying a first group of playing card indicia having a first suit and displaying the second group of cells comprises displaying a second group of playing card indicia having a second suit. Tallarida teaches of a game in which there two groups of cells, where displaying the first group of cells comprises displaying a first group of playing card indicia having a first suit and displaying the second group of cells comprises displaying a second group of playing card indicia having a second suit (See Tallarida Fig. 2, col. 1 lines 60-75) [claim 47]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have each row of playing card indicia

comprise a different suit. Marnell clearly teaches of putting different playing card indicia into the bingo matrix. Tallarida teaches of organizing bingo indicia by playing card suit. Therefore, it is obvious to organize the playing card indicia of Marnell by playing card suit so that players could compete to obtain certain indicia by suit. Furthermore, Marnell teaches of a royal flush being one of the cells in the matrix (See Marnell col. 8 line 54). Therefore, it is also obvious that the first playing card indicia and the second playing card indicia could comprise a hand including a royal flush [claim 48].

**Claims 85-89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marnell in view of Brune in further view of Baerlocher et al., U.S. Patent No. 6,648,754 B2.** Marnell lacks in disclosing the image of a ladder or lane. Baerlocher teaches of a gaming device in which an image representative of a game includes a ladder/lane, the ladder/lane comprises a first plurality of cells with a bottom/beginning and a top/end. Designation of the cell from the first plurality of cells comprises designating the next undesignated cell from the bottom of the ladder [claims 85, 87]. If the next underdesignated cell is designated, an image of a figure on the ladder/lane moving toward the top/end by one cell is displayed [claims 86, 88]. (See Baerlocher Fig. 6; col. 11 lines 1-18). For example, random selections are made which move the man up the ladder the number of spaces that are selected towards an overall jackpot goal. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have the object in the lane of Baerlocher be a car because Applicant has not disclosed that the use of a car, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art,

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furthermore, would have expected Baerlocher's game, and applicant's invention, to perform equally well with any object moving up the ladder/lane. Therefore, it would have been prima facie obvious to modify Baerlocher to obtain the invention as specified in claim 89 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Baerlocher. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a ladder or lane in the invention of Marnell so that one moves from one space in a sequential order. For example, one could consider the last row of the bingo matrix of Marnell to be the bottom/beginning of a ladder/lane as in Baerlocher and require a player to complete the matrix cells in a sequential order so that one could achieve the jackpot prize. By requiring a player to climb a ladder or lane, and thereby achieve cells in a sequence, the player can visually see how many more cells they need to complete before a prize is awarded.

#### ***Response to Amendment***

It has been noted that claims 38,41,81,106 have been amended

#### ***Response to Arguments***

Rejections under 112 have been withdrawn because of amendments made to overcome the 112 rejections.

Applicant's arguments with respect to claim 38,39,41-50,81-101,104,106 have been considered but are moot in view of the new ground(s) of rejection. Brune et

al. was added to teach no overlapping groups and different payouts for different sets of groups.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Cross whose telephone number is 571-272-5529. The examiner can normally be reached on 8-4 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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TL3760